

Message Text

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ACTION EB-11

INFO OCT-01 ARA-16 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

AID-20 CIAE-00 COME-00 FRB-02 INR-10 NSAE-00 RSC-01

TRSE-00 XMB-07 OPIC-12 SP-03 CIEP-02 LAB-06 SIL-01

OMB-01 NSC-07 SS-20 STR-08 CEA-02 L-03 H-03 PRS-01

PA-04 GSA-02 INT-08 DRC-01 /152 W

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FM AMEMBASSY KINGSTON

TO SECSTATE WASHDC IMMEDIATE 4799

UNCLAS KINGSTON 1816

E.O. 11652: N/A

TAGS: EMIN, EFIN

SUBJ: BAUXITE NEGOTIATIONS SITREP 63

REF: STATE 108377

AS REQUESTED PARA 6 REFTL, FOLLOWING IS PERTINENT SECTION OF INVESTMENT DISPUTES ACT. SECTION 2 OF ACT IS ICSID CONVENTION. COPY OF ACT POUCHED ROGERS ARA/CAR TODAY. EMBASSY RESPONSE OTHER QUESTIONS WILL FOLLOW SEPTL.

BEGIN TEXT:

"1. THIS ACT MAY BE CITED AS THE INVESTMENT DISPUTES AWARDS (ENFORCEMENT) ACT, 1966, AND SHALL COME INTO OPERATION ON A DAY TO BE APPOINTED BY THE MINISTER BY NOTICE PUBLISHED IN THE GAZETTE.

2. IN THIS ACT --

"AWARD" MEANS AN AWARD MADE PURSUANT TO THE CONVENTION AND INCLUDES ANY DECISION INTERPRETING, REVISING OR ANNULLING SUCH AN AWARD PURSUANT TO ARTICLE 50, 51 OR 52 OF THE CONVENTION;

"THE CENTRE" MEANS THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES ESTABLISHED BY THE CONVENTION;

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"THE CONVENTION" MEANS THE CONVENTION SET OUT IN THE SCHEDULE.

3. (1) AN AWARD SHALL, SUBJECT TO THE PROVISION OF THIS SECTION, BE ENFORCEABLE IN THE SUPREME COURT AS IF IT WERE A FINAL JUDGEMENT OF THAT COURT.

(2) DURING ANY PERIOD IN WHICH, PURSUANT TO ARTICLE 50, 51 OR 52 OF THE CONVENTION, ENFORCEMENT OF AN AWARD HAS BEEN STAYED, THE AWARD SHALL NOT BE ENFORCEABLE UNDER THIS ACT.

(3) AN AWARD WHICH WOULD BE ENFORCEABLE UNDER THIS ACT SHALL BE TREATED AS BINDING FOR ALL PURPOSES ON THE PARTIES AS BETWEEN WHOM IT WAS MADE AND MAY ACCORDINGLY BE RELIED ON BY ANY OF THOSE PARTIES BY WAY OF DEFENCE, SET OFF OR OTHERWISE IN ANY LEGAL PROCEEDINGS IN JAMAICA AND ANY REFERENCES TO THIS ACT TO ENFORCING AN AWARD SHALL BE CONSTRUED AS INCLUDING REFERENCES TO RELYING ON AN AWARD.

4. SUBJECT TO THE PROVISIONS OF THE CONVENTION, RULES OF COURT MAY PRESCRIBE THE EVIDENCE TO BE FURNISHED AND THE PROCEDURE TO BE ADOPTED IN RELATION TO THE ENFORCEMENT OF AN AWARD.

5. SECTION 6 OF CHAPTER I OF THE CONVENTION (WHICH RELATES TO THE STATUS, IMMUNITIES AND PRIVILEGES OF THE CENTRE SHALL HAVE THE FORCE OF LAW IN JAMAICA, SO, HOWEVER, THAT NOTHING IN ARTICLE 24 IN THAT SECTION SHALL BE CONSTRUED --

(A) AS ENTITLING THE CENTRE TO IMPORT GOODS FREE OF CUSTOMS DUTY WITHOUT ANY RESTRICTION ON THEIR SUBSEQUENT SALE IN JAMAICA;

(B) AS CONFERRING ON THE CENTRE ANY EXEMPTION FROM TAXES OR DUTIES WHICH FORM PART OF THE PRICE OF GOODS SOLD;

(C) AS CONFERRING ON THE CENTRE ANY EXEMPTION FROM TAXES OR DUTIES WHICH ARE IN FACT NO MORE THAN CHARGES FOR SERVICES RENDERED.

END TEXT.

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